

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

STATE OF HAWAII ex rel. DAVID M.
LOUIE, ATTORNEY GENERAL,

Plaintiff,

v.

BANK OF AMERICA
CORPORATION, FIA CARD
SERVICES, N.A., and DOE
DEFENDANTS 1-20,

Defendants.

Civ. No. _____

DECLARATION OF ERIC
CHOLTUS

I, Eric Choltus, hereby declare as follows:

1. I am a Senior Vice President, Business Production Management Executive at Bank of America Corporation ("BAC"). In this role, my day-to-day responsibilities include managing employees with responsibilities for various products that provide for the suspension or cancellation of debt repayment obligations, including a product called Credit Protection Plus. I am competent to testify on the matters stated herein. This declaration is based upon my personal knowledge and my review of BAC's and FIA Card Services, N.A.'s ("FIA") business records.

2. Bank of America Corporation (“BAC”) is a bank holding company incorporated in the State of Delaware with its principal place of business in North Carolina.

3. FIA Card Services, N.A. (“FIA”) is a national banking association chartered under the National Bank Act. FIA’s home office is located in Delaware.

4. FIA is a wholly-owned subsidiary of BAC.

5. I understand that this lawsuit asserts claims against FIA based upon cardholders’ enrollment in, and purchase of, fee-based debt cancellation products, including Credit Protection Plus.

6. According to FIA’s records, in the past six years over twenty thousand Hawaii residents enrolled in one of its debt cancellation products. According to FIA’s records, in that same time, fees for debt cancellation products paid by Hawaii residents have exceeded five million dollars (\$5,000,000).

7. FIA card holders ordinarily must make minimum payments on their credit card account balance each month. Credit Protection Plus (and similar debt cancellation products offered by FIA), cancel a cardholder’s obligation to make those minimum payments in whole or in part in the event of certain contingencies covered by the plan. Depending on the product, a card holder may be eligible for debt cancellation in the event of death, disability, involuntary

unemployment, marriage, birth of a child, moving, call to military service, hospitalization, or other “life events,” each of which is specifically defined by the terms of the plan. FIA’s debt cancellation products are governed by optional addenda to the terms of cardholder agreements.

8. FIA’s debt cancellation products offer some or all of the following services: (i) they allow customers to retain loaned funds on more favorable terms (*i.e.*, without paying interest charges that would accrue in the absence of the plan, and without paying late fees that otherwise would accrue if the customer were to fail to make a minimum payment), (ii) they relieve customers from the prospect of breaching or defaulting on their credit card loan terms and thereby protect their credit ratings, (iii) they allow customers to continue drawing on the credit extended by their credit card account under circumstances in which it otherwise might be reduced or withdrawn (*i.e.*, customers may continue to use their credit card up to their credit limit while benefiting from debt cancellation or suspension), and (iv) the plans may permanently relieve customers of some or all of their loan balance. FIA charges a fee for the plans as compensation for these services. These fees ordinarily are calculated as a percentage of the customer’s outstanding credit card loan balance.

I declare under penalty of perjury under the laws of the United States
that the foregoing is true and correct to the best of my knowledge and belief.

Executed on May 16, 2012



ERIC CHOLTUS